

1 VICK LAW GROUP, APC
2 Scott Vick (SBN 171944)
3 Catherine B. Kim (SBN 201655)
4 800 West Sixth Street, Suite 1220
5 Los Angeles, California 90017
6 Telephone: (213) 784-6227
7 Facsimile: (213) 784-6226
E-Mail: scott@vicklawgroup.com
catherine@vicklawgroup.com

6 Attorneys for Plaintiff
7 HANNAFORD ENTERPRISES, LLC,
a Delaware Limited Liability Company

8
UNITED STATES DISTRICT COURT

9
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

11 HANNAFORD ENTERPRISES, LLC, a
12 Delaware limited liability company,

CASE NO.: 5:16-cv-04048

13 Plaintiff,

**COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES LAWS**

14 v.
15 ROBERT R. WEAKLEY, an individual,
and INDUS HOLDING COMPANY, a
16 Delaware corporation,

DEMAND FOR JURY TRIAL

17 Defendants.

1 Plaintiff Hannaford Enterprises, LLC (“Plaintiff” or “Hannaford”) alleges as follows:

2 **SUMMARY OF THIS ACTION**

3 1. In January 2015, Defendant Robert Weakley set out to raise \$3 million in a private
 4 offering for a Salinas-based start-up company (called Defendant Indus Holding Company
 5 (“Indus” or the “Company”)). Indus, together with several other related entities that Indus
 6 created and controlled (including Altai brands), was in the business of manufacturing and selling
 7 cannabis infused edibles (including bonbons, lozenges, chocolate bars and truffles) and licensing
 8 related intellectual property related to the cannabis business.

9 2. Beginning in January 2015, to lure and defraud unsuspecting investors, Weakley
 10 (on behalf of himself and Indus) falsely represented orally and in writing to prospective investors
 11 including Plaintiff that Weakley had personally invested \$574,250 into the Company.
 12 Specifically, Weakley represented that he personally invested **\$250,000 in cash**, plus additional
 13 non-cash consideration with a fair market value of \$324,250 (for total consideration of
 14 \$574,250). Weakley’s supposed personal “investment” represented approximately 20% of the
 15 total amount of money that Weakley and Indus sought to raise in a Series “A” round of financing
 16 from wealthy and unsuspecting investors residing mostly in the Monterey, California area, and
 17 40% of all of the outstanding stock. For Weakley’s supposed investment which turned out to be
 18 fictitious, Weakley obtained 5,742,500 shares of the Company’s common stock.

19 3. Weakley knew that it would be important and highly material to prospective
 20 investors to know that he (as the founder and CEO of the Company) had made a sizeable
 21 personal **cash** investment of \$250,000 into the Company, in addition to \$324,250 worth of non-
 22 cash contributions. This was a material representation because all else being equal, investors like
 23 Plaintiff take comfort and often prefer to invest in companies where a founder has placed a
 24 substantial amount of his own cash equally at risk to the investor’s cash.

25 4. Plaintiff was one of the unsuspecting investors duped by the false representations
 26 and omissions of Weakley and Indus. On or about February 13, 2015, and based in part on
 27 Weakley’s reportedly sizeable personal investment, which supposedly included \$250,000 in cash,

1 and Weakley's and Indus's materially false financial projections, Plaintiff purchased 1,322,751
2 shares of Indus Series A Preferred stock for \$750,000. At the time of its investment, Plaintiff
3 was, and remains today, Indus's largest single investor, together with one other investor who
4 invested the same amount of money.

5 5. As part of his effort to conceal his fraud from investors including Plaintiff,
6 Weakley fired the company's CFO (Joe Halligan) after only four months, and refused to hire a
7 new CFO despite there being qualified, able, and willing candidates to fill the position.

8 6. Weakley then drained the company of investor money, using the company's
9 money as if it were his own personal piggy bank. Instead of timely paying the company's
10 vendors (including the law firm of Morgan Lewis) who endured long periods of time without
11 payment, Weakley lavished himself with cash to live an opulent lifestyle. For example, the
12 company paid for a private air service (Surf Air), which Weakley frequently used for personal
13 and family purposes without reimbursing the company. Weakley also used company funds to
14 pay his personal legal bills (including the costs of defending against a separate securities fraud
15 lawsuit filed against him). And, despite the company being strapped for cash and not paying
16 vendors, when Weakley travelled, he stayed only at posh hotels the company could not afford
17 like the Peninsula Hotel, the L'Ermitage Hotel in Beverly Hills, and the Four Seasons.

18 7. By November 2015, when the Company was starved for cash, Plaintiff became
19 aware that, contrary to Weakley's representations, Weakley had not invested \$250,000 in cash,
20 and his "non-cash" investment was not worth anything near \$324,250. In fact, Weakley did not
21 even have \$250,000 in cash at the time he and Indus represented that he had invested that cash in
22 the Company (or since then). In effect, Weakley fabricated his fictitious personal investment in
23 the Company out of whole cloth, and circulated capitalization tables showing that he owned 39%
24 of the Company based on a contribution he never made.

25 8. Had Plaintiff known the truth, Plaintiff would not have invested. Indeed, after the
26 truth was revealed, during a November 2015 board meeting, one of the Company's directors told
27
28

Weakley that some or all of the investors would not have made their investment if they knew he did not have any “skin in the game” in the form of a sizeable, personal cash investment.

9. By this action, Plaintiff seeks compensatory damages for all damages it has sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest and attorneys fees and costs.

JURISDICTION AND VENUE

10. This action arises under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. § 240.10b-5.

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, and § 27 of the Exchange Act, 15 U.S.C. § 78aa. Venue is proper in this District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b).

12. Defendant Indus maintains its principal place of business within this District, and Defendants' conduct and/or conducted business in this District, and many of the acts giving rise to the violations alleged herein, including the preparation and dissemination of materially false and misleading information and omissions, occurred in substantial part in this District. Defendant Weakley also resides in this District.

13. In connection with the acts alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce including, but not limited to, mail and interstate telephone communications.

THE PARTIES

A. Plaintiff

14. Plaintiff Hannaford Enterprises, LLC (“Plaintiff” or “Hannaford”) is a limited liability company whose principal place of business is located at 14555 West Indian School Road, Goodyear, Arizona 85935. On or about February 13, 2015, Plaintiff purchased 1,322,751 shares of Indus Series A Preferred stock for \$750,000 and suffered damages as a result of the federal securities law violations alleged herein.

1 **B. Defendants**

2 15. Defendant Indus Holding Company (“Indus” or the “Company”) is Delaware
 3 corporation with its principal place of business located at 20 Quail Run Circle, Unit B, Salinas,
 4 California 93907.

5 16. Defendant Robert R. Weakley is an individual residing at 11538 Saddle Road,
 6 Monterey, California 93940, and at all relevant times herein, was one of the Company’s
 7 founders, its CEO, and a member of the board of directors. Defendant Weakley made the false
 8 statements and omissions as set forth herein.

9 **DEFENDANTS’ FRAUD**

10 17. Defendants’ fraud began with their creation of several corporate documents which
 11 falsely represented that, in January 2015, Weakley had personally purchased 5,742,500 shares of
 12 the Company’s common stock for \$574,250, which included \$250,000 in cash from Weakley,
 13 plus non-cash consideration by him with a fair market value of \$324,250.

14 18. The first fraudulent document Indus and Weakley created, which was distributed
 15 to prospective investors, was a “Restricted Stock Purchase Agreement” (“Purchase Agreement”),
 16 entered into on or about January 20, 2015, between Weakley and the Company.

17 19. Under the Purchase Agreement, Weakley agreed to purchase 5,742,500 shares of
 18 the Company’s common stock (at the price of ten (10) cents per share) for consideration with a
 19 purported value of \$574,250, consisting of both cash and non-cash components. The Purchase
 20 Agreement provided that the “purchase price shall be paid by the transfer of certain assets from
 21 [Weakley] to the Company as set forth on Exhibit A attached hereto and incorporated herein by
 22 reference.” (Purchase Agreement, ¶ 1).

23 20. The Purchase Agreement provided that Weakley was required to pay for the
 24 5,742,500 shares of stock “simultaneously with the execution and delivery” of the Purchase
 25 Agreement (which the agreement defines as the “Purchase Date”), which was January 20, 2015.
 26 Therefore, the Purchase Agreement required Weakley to pay in full for his shares, including the
 27 \$250,000 in cash, by no later than January 20, 2015.

1 21. Weakley made a point of emphasizing to investors – in order to fraudulently
2 induce them to invest in the Company – that he had made a \$250,000 cash investment in the
3 company. On one occasion, Weakley lied directly to Plaintiff during a conversation when
4 Weakley told Plaintiff's principal John Knight and others – prior to Plaintiff's \$750,000
5 investment in the Company – that Weakley had personally invested \$250,000 cash in the
6 Company (supposedly in connection with the purchase of a building for the manufacture of the
7 edibles). That was an outright lie. But Weakley's lies did not stop there. Weakley also sent e-
8 mails (and/or permitted others to send emails) to investors wherein he repeatedly lied about the
9 fact that he had made a \$250,000 personal cash investment in the Company.

10 22. Plaintiff is informed and believes and on that basis avers that Weakley did not
11 have – and knew he did not have – \$250,000 in cash on January 20, 2015 when Weakley claimed
12 to have made the investment in the Company, or at any time since then. Thus, Defendants'
13 representations to investors including Plaintiff (about Weakley's supposed \$250,000 cash
14 investment) were knowingly false. Moreover, because Weakley did not pay for the Company's
15 stock, he also falsely represented to investors including Plaintiff that he was a substantial
16 stockholder of the Company (owning 39% of the company), and thereby used his fraudulent
17 activity to maintain control over the Company.

18 23. Because a portion of the purchase price consisted (supposedly) of \$324,250 worth
19 of non-cash items contributed by Weakley, the Purchase Agreement required that Weakley pay
20 for the shares of stock by delivering to the Company on the closing date of January 20, 2015, a
21 signed Intellectual Property Assignment Agreement ("Assignment Agreement"). The
22 Assignment Agreement required that Weakley assign his interest in the non-cash items (and also
23 reiterated Weakley's obligation to provide the \$250,000 cash to the Company).

24 24. Because the Purchase and Assignment Agreements valued Weakley's non-cash
25 contributions at \$324,250, Indus and Weakley represented that the fair market value of that non-
26 cash consideration was \$324,250. In truth and fact, it was worth little or nothing. Defendants
27 knowingly misrepresented to investors including Plaintiff the supposedly fair market value of
28

Weakley's non-cash contribution, on which Plaintiff relied in making its investment in the Company.

25. In addition, Weakley provided materially false and misleading financial projections and other information, which he knew, or was reckless in not knowing, were materially false or which omitted material information to make the representation not misleading.

CLAIMS FOR RELIEF

COUNT I

For Violation Of § 10(b) Of The Securities Exchange

Act And SEC Rule 10b-5 Against Weakley and Indus

26. Plaintiff incorporates by reference each and every allegation contained above, as if set forth herein.

27. This claim is brought by Plaintiff pursuant to Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder against Defendants Weakley and Indus.

28. As set forth above, Defendants made materially false and misleading statements and omissions that were intended to, and did, deceive Plaintiff, as alleged above. Defendants, and each of them took the actions set forth herein.

29. Defendants Weakley and Indus: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the Plaintiff in an effort to induce Plaintiff to invest in Indus in violation of Section 10(b) of the Securities Exchange Act and Rule 10b-5. All Defendants are legally responsible as primary participants in the wrongful and illegal conduct charged herein, and Weakley is also legally responsible as controlling person as set forth in Count II below.

30. Defendants, individually and in concert, directly and indirectly, by the use, means, or instrumentalities of interstate commerce and/or mail, engaged and participated in a continuous

course of conduct to dissimmenate material false statements and to conceal adverse material information about the business, operations and future prospects of Indus as specified herein.

31. The Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or recklessly disregarded the truth in that they failed to ascertain and to disclose such facts. Such Defendants' material misrepresentations and omissions were done knowingly or with deliberate disregard for the purpose and effect of inducing Plaintiff to invest in Indus at an artificially inflated price.

32. In ignorance of Defendants' materially false statements and omissions set forth above and relying directly or indirectly on the false and misleading statements made by Defendants, Plaintiff acquired stock at artificially high prices and was damaged thereby.

33. At the time of said misrepresentations and omissions, Plaintiff was ignorant of their falsity, and believed them to be true. Had Plaintiff known the truth regarding Weakley and Indus, which was not disclosed by Defendants, Plaintiff would not have purchased or otherwise acquired their Indus common stock, or, if they had acquired such common stock, they would not have done so at the artificially inflated prices which they paid.

34. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

35. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff suffered damages in connection with its purchase of Indus common stock.

COUNT II

**For Violation Of § 20(a) Of The Securities
Exchange Act Against Weakley and Indus**

36. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

37. Defendant Weakley acted as controlling persons of Indus within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of his high-level position, his ownership and contractual rights, participation in and awareness of Indus's operations, and

intimate knowledge of the fraudulent scheme and the false financial information provided to Plaintiff, Weakley had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of Indus, including the content and dissemination of the various statements which Plaintiff contends were false and misleading. Defendant Weakley was provided with, or had unlimited access to, Indus's documents and financial records alleged by Plaintiff to be misleading prior to and shortly after these statements were made and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

38. In particular, Weakley had direct and supervisory involvement in the day-to-day operations of Indus and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. For example, Weakley was able to and did control the content of the various written materials provided to Plaintiff prior to its investment.

39. Weakley participated in the drafting, preparation, and/or approval of false information provided to Plaintiff, as well as other communications alleged herein.

40. As set forth above, Weakley violated Section 10(b) and Rule 10b-5 by his acts and omissions as alleged in this Complaint. By virtue of his position as controlling person, the Weakley is also liable to Plaintiff pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Weakley's wrongful conduct, Plaintiff suffered damages in connection with its purchase of Indus stock.

COUNT III

For Declaratory Relief

Against Weakley and Indus

41. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

42. An actual controversy has arisen and now exists between Plaintiff, on the one hand, and Defendants on the other, concerning the amount of stock that Weakley owns in the Company. Defendants contend that Weakley owns 5,742,500 shares of the Company's common

stock. Plaintiff contends that, as a result of the allegations above, Weakley does not own any of the Company's stock.

43. Plaintiff requests a judicial determination of the amount of stock that Weakley owns in the Company, and a declaration that Weakley does not own any of the Company's stock.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Awarding compensatory damages in favor of Plaintiff for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- B. Awarding Plaintiff its reasonable costs and expenses incurred in this action, including counsel fees and expert fees;
- C. Issuing a declaratory judgment stating that Weakley does not own any of the Company's stock; and
- D. Awarding such other and further relief as the Court may deem just and proper.

Dated: July 18, 2016

Respectfully submitted,

VICK LAW GROUP, APC

/s/ Scott Vick
SCOTT VICK

SCOTT VICK (Bar No. 171944)
(scott@vicklawgroup.com)
CATHERINE B. KIM (Bar No. 201655)
(catherine@vicklawgroup.com)
800 W. 6th Street, Suite 1220
Los Angeles, CA 90017
Tel: (213) 784-6225
Fax: (213) 784-6226

Attorneys for Plaintiff
HANNAFORD ENTERPRISES, LLC

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: July 18, 2016

Respectfully submitted,

VICK LAW GROUP, APC

/s/ Scott Vick

SCOTT VICK

SCOTT VICK (Bar No. 171944)
(scott@vicklawgroup.com)
CATHERINE B. KIM (Bar No. 201655)
(catherine@vicklawgroup.com)
800 W. 6th Street, Suite 1220
Los Angeles, CA 90017
Tel: (213) 784-6225
Fax: (213) 784-6226

Attorneys for Plaintiff
HANNAFORD ENTERPRISES, LLC